

## Equal Parenting Alliance Party Briefing 2

### Why the DCA Proposals for Opening Family Courts Will Not Work

It is unfortunate that the government proposals for opening up the family courts are passing almost un-noticed (and being in effect quietly cheered) by most of the father's / equal parenting groups out there. In fact, I believe we are in danger of sitting back and letting the government gain a major coup against the movement - with almost no gain for us and our children.

Because, unfortunately, I think the current proposals (basically allowing press into family courts) will make hardly any difference to openness - but will forever let the government and judiciary off the hook against the charge of secret family courts.

But why do I say this? Surely allowing the press into court rooms is what we've been demanding for all these years? Surely they will see any injustice for themselves and be able to come out and say with authority "Father's groups have been right all this time - these courts don't work!"?

Well no. I don't think this will happen.

Firstly, we know from similar systems where this has been tried that very few press actually attend family courts, so most proceedings will remain private anyway.

Secondly, and far more importantly, even if they do go into court, they probably won't be able to understand what's going on in any case. Don't forget, they won't have seen any statements from the participants, any CAFCASS, social services, or other 'expert' reports that may have been submitted, they won't be able to speak to the participants about the case or ask questions or see any documents before the court. All they will be able to do is listen within the court room itself.

In my experience, most family court hearings are little more than rubber-stamping by the judge of anything recommended in the CAFCASS report. Any debate that goes on is usually limited to asking what the two sides think and then - whatever they might have said - the judge will make a patronising statement about how this is in the best interests of the child (and how much better it would all be if they could just be nice and agree together) - and then come down on side with the CAFCASS report. As we know, this report will ba-

sically say that the status quo is best for the child (with a touch of an increase in contact if that's being asked for). All very, very, nice.

So the observing journalist, will see a bland, sterile affair with a judge saying how much this is best for the child (and after all that is what is important, tut tut tut, the judge will say, while simultaneously wagging a metaphorical finger at the participants).

So how is that journalist supposed to be able to judge whether what has been decided IS in the best interests of the child. They will only really have the judge's word for it. But after all, judge X is a highly experienced family court judge, so he should know - surely?

After attending ten of these hearings, the journalist will be pretty fed up. They will have seen ten hearings where the judge said that - in the opinion of the expert from CAFCASS - this result is in the best interests of the child. In the journalist's mind, the 'score' will be clear:

Government/Family Courts 10 : Father's Rights/Equal Parenting 0

It won't be long before the [all too eager] press is full of reports saying that "Family courts ARE fair. We have seen one hundred hearings over the entire country, and they were ALL decided in the best interests of the child. Up Yours Spiderman!".

Of course, the courts won't have changed, the decisions won't have changed. But one of the few good arguments that can be levelled against the government now - the secrecy of the courts - will be gone for good.

It will then be too late to cry "Oh they still don't see all the evidence - the courts really are unfair - honest!" because, by then, they'll be bored with the whole thing. Secret family courts / father's rights will be off the agenda for good.

So while, of course, there will be *some* gains in opening the court rooms to the press, I believe that overall the effect on the movement and on future cases will be negative.

A classic case of two steps forward, five steps back.

**Background :** The Department of Constitutional Affairs (DCA) – the Government department responsible for the family courts – have issued their proposals for opening the family courts to public scrutiny, together with a consultation document and questionnaire. Members of the public and other interested bodies are invited to submit responses by 30th October 2006.

**Government Proposals In Brief :** The DCA consultation document, despite running to ninety pages in length, really only manages *one* substantive proposal for increasing openness and transparency of family courts.

Their main proposal is that journalists should be allowed to attend family court hearings as a right, (although this can still be denied by a judge giving reasons for the refusal).

They also propose extending the current laws so that identifying the *adults* involved in a case is also an offence (currently, it is an offence to identify a *child*).

**The Current Law :** The press are not allowed into family court hearings. It is an offence to reveal details of a case to anyone, including the press.